

AMENDED IN SENATE APRIL 14, 2011

AMENDED IN SENATE APRIL 5, 2011

SENATE BILL

No. 394

Introduced by Senator DeSaulnier

February 16, 2011

An act to add Sections 17610.2, ~~17610.3, and 17610.4~~ and 17610.3 to the Education Code, and to amend Section 13185 of the Food and Agricultural Code, relating to the Healthy Schools Act of 2011.

LEGISLATIVE COUNSEL'S DIGEST

SB 394, as amended, DeSaulnier. Healthy Schools Act of 2011.

Existing law, the Healthy Schools Act of 2000, requires that the preferred method of managing pests at schoolsites, as defined, is to use effective, least-toxic pest management practices and requires schoolsites to maintain records of all pesticides used at the schoolsite for a period of 4 years. Existing law requires schools to provide all staff and parents or guardians of pupils enrolled at a school written notification of, among other things, expected pesticide use at that schoolsite. These provisions also require the Department of Pesticide Regulation to establish an integrated pest management training program in order to facilitate the adoption of a model Integrated Pest Management program and least-hazardous pest control practices by schoolsites.

This bill would enact the Healthy Schools Act of 2011. The bill would provide that only ~~self-contained baits~~, gels; and pastes deployed as crack and crevice treatments, *self-contained baits*, and spot treatments may be used on schoolsites. The bill would prohibit use of a pesticide on a schoolsite if that pesticide contains an ingredient known to the state to cause cancer or reproductive toxicity, as specified, or any one of specified cholinesterase-inhibiting pesticides. ~~The bill would prohibit,~~

~~on and after January 1, 2014, the use of a pesticide on a schoolsite if that product contains certain toxic or dangerous ingredients, as described, including any cholinesterase-inhibiting active ingredient, as identified by the Department of Pesticide Regulation, an active ingredient that is a groundwater or toxic air contaminant, as specified, or a fumigant, as ingredients identified by the Department of Pesticide Regulation, except as specified.~~

The bill would also require all schoolsites, as defined and except as specified, to send at least one person to one of the department trainings at least once every 3 years. Because this provision would impose additional duties on local public employees, the bill would impose a state-mandated local program. The bill would further authorize a person from a single school district to attend the training on behalf of multiple schoolsites within that school district.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Healthy Schools Act of 2011.
- 3 SEC. 2. The Legislature hereby finds and declares all of the
- 4 following:
- 5 (a) Pesticides have been linked to numerous acute and chronic
- 6 illnesses, including cancer and asthma.
- 7 (b) According to the federal Centers for Disease Control and
- 8 Prevention, children between 6 and 11 years of age have higher
- 9 levels of commonly used pesticides in their bodies than any other
- 10 age group, with an average of six pesticides per child. According
- 11 to research conducted by the University of California, San
- 12 Francisco, children's disease and conditions linked to pesticide
- 13 exposure, which include learning disabilities, cancer of the brain
- 14 and leukemia, birth defects, and asthma, have increased

1 dramatically over the past 30 years. Because children's bodies and
2 brains are still developing, exposure to pesticides can have
3 irreversible detrimental effects. *Our greatest care and caution in*
4 *the use of pesticides should be employed when children are present.*

5 (c) Recognizing the impact of pesticides on the school
6 community, the Department of Pesticide Regulation has developed
7 an Internet Web site, written training materials, and conducted
8 regional training sessions to assist schools that have chosen to
9 adopt least-toxic integrated pest management techniques and to
10 eliminate the use of the most dangerous pesticides. *Many school*
11 *districts and pest control operators have implemented Integrated*
12 *Pest Management (IPM) programs that operate with greatly*
13 *reduced use of pesticides. We desire that children attend schools*
14 *with IPM programs functioning at a high level.*

15 (d) However, many California public schools continue to use
16 highly toxic pesticides. Least-toxic pest management activities
17 have actually decreased from 2004 to 2007, inclusive, as measured
18 by the report titled 2007 Integrated Pest Management Survey of
19 California School Districts, prepared for the Department of
20 Pesticide Regulation. Forty-two percent of school districts that
21 responded to the survey stated that they were still broadcast
22 spraying pesticides, one of the highest risk practices for exposing
23 children and staff and contaminating the environment. Of the
24 school districts that claimed to be implementing integrated pest
25 management practices, 62 percent stated that the costs were the
26 same or less than using chemical-intensive methods.

27 (e) According to the State Department of Education, there are
28 over 1,000 school districts, and about 9,900 school sites in
29 California servicing over 6,000,000 pupils.

30 (f) It is necessary to take precautionary measures to protect the
31 health and safety of California schoolchildren and teachers, and
32 better ensure a safe learning and working environment.

33 SEC. 3. Section 17610.2 is added to the Education Code, to
34 read:

35 17610.2. Only ~~self-contained baits, gels, gels~~ and pastes
36 deployed as crack and crevice treatments, *self-contained baits*, and
37 spot treatments may be used on schoolsites.

38 SEC. 4. Section 17610.3 is added to the Education Code, to
39 read:

17610.3. The use of a pesticide on a schoolsite is prohibited if that pesticide contains one or more of the following ingredients:

(a) An ingredient known to the state to cause cancer or reproductive toxicity in accordance with Section 25249.8 of the Health and Safety Code.

(b) ~~Any of the following cholinesterase-inhibiting pesticides:~~
ingredients, as identified by the Department of Pesticide Regulation.

~~(1) Acephate.~~

~~(2) Chlorpyrifos.~~

~~(3) Ethephon.~~

~~(4) Malathion.~~

~~(5) Methamidophos.~~

~~(6) Propetamphos.~~

~~(7) Trichlorfon.~~

(c) *This section does not apply to any of the following:*

(1) Sanitizers and disinfectants.

(2) Activities undertaken at a school by participants in the state program of agricultural career technical education, pursuant to Article 7 (commencing with Section 52450) of Chapter 9 of Part 28 of Division 4 of Title 2, if the activities are necessary to meet the curriculum requirements prescribed in Section 52454. Nothing in this subdivision relieves schools participating in the state program of agricultural career technical education of any duties pursuant to this section for activities that are not directly related to the curriculum requirements of Section 52454.

(3) Agricultural uses.

(d) This section does not abrogate the authority of county health officers, the Department of Food and Agriculture, mosquito and vector control districts, the State Department of Public Health, or other state agencies that are responsible for pest management decisions that may affect public schools in California.

(e) This section does not preclude a school district from adopting stricter pesticide use policies or from enforcing stricter policies that have already been adopted.

~~SEC. 5. Section 17610.4 is added to the Education Code, to read:~~

~~17610.4. On or after January 1, 2014, the use of a pesticide on a schoolsite is prohibited if that pesticide product comes within any of the following descriptions:~~

1 ~~(a) Contains any cholinesterase-inhibiting active ingredients as~~
2 ~~identified by the Department of Pesticide Regulation.~~

3 ~~(b) Contains active ingredients that are groundwater~~
4 ~~contaminants as determined by the Director of Pesticide Regulation~~
5 ~~pursuant to subdivision (d) of Section 13145 or Section 13149 of~~
6 ~~the Food and Agricultural Code.~~

7 ~~(c) Contains active ingredients that are designated as toxic air~~
8 ~~contaminants pursuant to Section 14021 or 14023 of the Food and~~
9 ~~Agricultural Code.~~

10 ~~(d) Contains active ingredients that are fumigants as identified~~
11 ~~by the Department of Pesticide Regulation.~~

12 ~~(e) Is labeled with the signal word “danger” or “warning”~~
13 ~~pursuant to regulations adopted by the secretary pursuant to~~
14 ~~provisions of Division 7 (commencing with Section 12500) of the~~
15 ~~Food and Agricultural Code governing the registration and labeling~~
16 ~~of pesticides.~~

17 ~~SEC. 6.~~

18 *SEC. 5.* Section 13185 of the Food and Agricultural Code is
19 amended to read:

20 13185. (a) The department shall establish an integrated pest
21 management training program in order to facilitate the adoption
22 of a model IPM program and least-hazardous pest control practices
23 by schoolsites. All schoolsites, as defined in Section 17609 of the
24 Education Code, excluding family day care homes, as defined in
25 Section 1596.78 of the Health and Safety Code, shall send at least
26 one person to one of the department trainings at least once every
27 three years. The person from a single school district may attend
28 the training on behalf of multiple schoolsites within that school
29 district. In establishing the IPM training program, the department
30 shall do all of the following:

31 (1) Adopt a “train-the-trainer” approach, whenever feasible, to
32 rapidly and broadly disseminate program information.

33 (2) Develop curricula and promote ongoing training efforts in
34 cooperation with the University of California and the California
35 State University.

36 (3) Prioritize outreach on a regional basis first and then to school
37 districts. For outreach to child day care facilities, the department
38 shall participate in existing trainings that provide opportunities for
39 disseminating program information broadly on a regional basis.

1 (b) Nothing in this article shall preclude a schoolsite from
2 adopting stricter pesticide use policies.

3 ~~SEC. 7.~~

4 *SEC. 6.* If the Commission on State Mandates determines that
5 this act contains costs mandated by the state, reimbursement to
6 local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.